

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

JERRY HINES, JR.,

Plaintiff,

DECISION AND ORDER

10-CV-6493L

v.

VETERANS OUTREACH CENTER,

Defendant.

Plaintiff, Jerry Hines ("Hines"), who is proceeding *pro se*, has filed a motion for default judgment (Dkt. #15) and a motion for summary judgment (Dkt. #17). Both motions are denied.

This Court previously granted defendant's motion for an extension of time to answer and during that time, the defendant moved to dismiss the complaint (Dkt. #13). That motion constitutes an appropriate response to the complaint, as provided by Rule 12 of the Federal Rules of Civil Procedure and, therefore, there is no basis to enter a default judgment.

Plaintiff's motion for summary judgment is basically based on the same argument, that is, that the defendant failed to appear.

CONCLUSION

Plaintiff's motions for default judgment (Dkt. #15) and for summary judgment (Dkt. #17) are denied.

IT IS SO ORDERED.



DAVID G. LARIMER
United States District Judge

Dated: Rochester, New York
January 21, 2011.